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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,635	02/01/2001	Junichi Kosugi	WN-2300	3066

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EXAMINER

NGUYEN, LEE

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/774,635

Applicant(s)

KOSUGI, JUNICHI

Examiner

LEE NGUYEN

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the communication filed 12/15/2003. In the previous action, the rejection of claims 1, 6 is based on the JP Publication 11-112,416. This rejection is withdrawn according to a new cited reference as followed.

Information Disclosure Statement

1. The Ids filed 11/5/2003 has been considered and recorded in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said reverse channel" in the last line of page 3. There is insufficient antecedent basis for this limitation in the claim because "there are two reverse channels in the claim".

Dependent claims 2-5 are rejected for the same reason.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 6, 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Honkasalo (US 6,510,148).

Regarding claim 1, Honkasalo teaches a radio communication system comprising a base station 30 and a mobile station 10 (fig. 2), said base station transmitting a data signal to said mobile station through a forward channel (CDMA IS-95) and transmitting one of a first power control signal indicating the positive of a received signal from said mobile terminal (see decrease transmission power command, col. 4, line 9) a second power control signal indicating the negative of said received signal (see increase transmission power command, col. 3, line 67) in accordance with the positive or negative

of said received signal in ~~accordance with the positive or negative of~~
~~said received signal~~, said mobile terminal for transmitting a data
signal to said base station through a first reverse channel indicating
an existing traffic channel (see fundamental data channel, col. 3, line
65) and a second reverse channel indicating a traffic channel added
for data communication (see supplemental data channel, col. 3, line
66) and controlling an operation to increase a transmission power of
the data signal to be transmitted to said base station when said
second power control signal is received (col. 3, line 67 through col. 4,
line 1); wherein said mobile terminal comprises: a receiving unit 16
(fig. 1) for receiving said first and second power control signals; a
transmission power control unit 18 for controlling the power of the
transmission signal of the reverse channels based on said first and
second power control signals received (col. 5, lines 2-4); and a
transmission control unit 18 for monitoring whether or not a value of
the transmission power controlled by said transmission power control
unit exceeds a predetermined maximum value and transmitting the
data signal to said base station only through said first reverse
channel when said transmission-power value reaches said maximum

value (col. 8, lines 15-24, only fundamental channel is used) and said second power control signal is continuously received for a predetermined time (see the average "mean output power" values over several power control commands, in order to make a decision on whether to change the number of supplemental channels in use, see col. 9, lines 61-64; this means that the second power control signal is continuously received for a predetermined time).

Regarding claim 6, the claim is interpreted and rejected for the same reason as set forth in claim 1. The claim only differs from claim 1 in that the transmission of the data signal to the base station according to the maximum value of the transmission power is continuously detected for a predetermined time. However, the average mean value of Honkasalo implies that the maximum value is determined for a predetermined time (col. 9, lines 61-64).

Regarding claim 9, the claim is interpreted and rejected for the same reason as set forth in claim 1.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honkasalo.

Regarding claim 2, Honkasalo further teaches the power control bits of "1" and "0" in col. 8, lines 8-10 corresponding to the claimed "0" and "1", respectively. Therefore, it is obvious to one of ordinary skilled in the art at the time the invention was made to either assign the alternate "1" and "0" in the power control bits because it is not essential to the invention.

Regarding claim 3, the power control unit 18 (fig. 1) of Honkasalo inherently includes a power control unit reading unit.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Honkasalo in view of Kong cited in the previous action.

Regarding claim 4, Honkasalo mentions that the several power control commands are used to calculate the average values (col. 9, lines

61-64) in order to determined whether to cut the supplement channel.

Honkasalo does not teach the use of counter for counting the number of the power control command. The technique of using a counter for counting the number of power control bit is conventionally well known, as taught by Kong. Kong teaches using a counter to count the value of the power control bit within a predetermined time duration and to compare to threshold in order to increase or decrease channel data rate, [0055]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the counter to the controller of Honkasalo in order to simplify the hardware or software that used to calculate the average value with the simple counter, which can be included in the controller 18 of Honkasalo.

Regarding claim 5, the reverse fundamental channel and the reverse supplemental channel has been addressed in the rejection of claim 1.

Regarding claim 7, the claim is interpreted and rejected for the same reason as set forth in claim 4.

Regarding claim 8, the claim is interpreted and rejected for the same reason as set forth in claim 5.

Response to Arguments

9. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LEE NGUYEN
Primary Examiner
Art Unit 2682